

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

| | | |
|----------------------------|---|-----------------------------|
| CHRISTOPHER MCNAUGHTON, |) | |
| |) | CIVIL ACTION |
| |) | |
| Plaintiff, |) | Case No.: 2:21-cv-03802-MMB |
| |) | |
| v. |) | |
| |) | |
| UNITEDHEALTHCARE INSURANCE |) | JURY TRIAL DEMANDED |
| COMPANY and UNITED |) | |
| HEALTHCARE, INC., |) | |
| |) | |
| Defendants. |) | |

**MOTION TO COMPEL PRODUCTION OF
SUBPOENAED DOCUMENTS AND THINGS**

AND NOW comes the Plaintiff, by and through his counsel, Gesk Moritz, LLC and Jonathan M. Gesk, Esquire, and hereby files this Motion to Compel Production of Subpoenaed Documents and Things, and in support thereof aver as follows:

1. The above-captioned matter involves claims by Plaintiff, Christopher McNaughton, against Defendants, related insurance companies, that Defendants, amongst other things, denied Mr. McNaughton health insurance benefits owed to him under a student health insurance policy.
2. FirstRisk Advisors, Inc. is a Pennsylvania corporation with a principal place of business located at 67 West Court Street, Doylestown, Pennsylvania 18901.

3. FirstRisk Advisors is an insurance broker and was involved in the health insurance coverage dispute between Mr. McNaughton and UnitedHealthcare, including issuing a letter to Mr. McNaughton stating that his life-saving medications would not be covered by UnitedHealthcare.

4. On January 13, 2022, FirstRisk Advisors was properly served with a subpoena to produce documents in this case. (Exhibits “A” and “B”).

5. FirstRisk Advisors did not object or respond to the subpoena.

6. Undersigned counsel entered his appearance in this case on March 16, 2022.

7. On April 1, 2022, undersigned counsel sent a letter to FirstRisk Advisors following up on the subpoena and the lack of a response thereto. (Exhibit “C”).

8. FirstRisk Advisors did not respond to the April 1, 2022 letter.

9. On April 12, 2022, undersigned counsel emailed the President of FirstRisk Advisors, David Opperman, following up on the lack of a response to the subject subpoena. (Exhibit “D”).

10. Mr. Opperman was directly involved in the dispute between Mr. McNaughton and UnitedHealthcare and was the individual who, amongst other things, communicated the denial of benefits to Mr. McNaughton. Mr. Opperman used that specific email address when communicating with Mr. McNaughton.

11. FirstRisk Advisors has not responded to the April 12, 2022 email.

12. "A person not a party to the action may be compelled to produce documents . . . as provided in Rule 45." *Marjam Supply Co. of Fla., LLC v. Pliteq, Inc.*, No. 17-MC-102, 2017 U.S. Dist. LEXIS 123067, at *4 (E.D. Pa. Aug. 4, 2017)

13. If the non-party objects to the subpoena, it may file a Motion to Quash, a Motion to Modify, or seek a protective order. *Id.* FirstRisk Advisors has neither communicated an objection to the subject subpoena nor utilized any of the methods to quash or limit the subpoena.

14. This Honorable Court has the authority to compel FirstRisk Advisors' compliance with the subject subpoena and order the production of the requested documents and things. See, Fed. R. Civ. Pro. 45 and *Frank Brunckhorst Co. v. Ihm*, No. 12-0217, 2012 U.S. Dist. LEXIS 149889, at *14 (E.D. Pa. Oct. 18, 2012)(“The language of Rule 45 clearly contemplates that the court enforcing a subpoena will be the court that issued the subpoena.”).

15. The requested documents are relevant to the subject lawsuit and can be produced in electronic form, minimizing any burden incurred in responding to the subpoena.

WHEREFORE, Plaintiff, Christopher McNaughton, requests this Honorable Court grant his Motion to Compel Production of Subpoenaed Documents and Things

and enter an Order granting FirstRisk Advisors, Inc. ten (10) days to produce the requested documents and recordings or be subject to sanctions and/or contempt.

GESK MORITZ, LLC

Date: April 20, 2022

By: s/ Jonathan M. Gesk
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